

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

RANDY MURPHY,

No. C 04-03062 TEH

Plaintiff,

v.

ORDER

CITY OF OAKLAND, et al.,

Defendants.

_____ /

This matter comes before the Court on Plaintiff's motion for partial summary judgment, or, in the alternative, for summary adjudication of issues. Having carefully considered the parties' written arguments, proffered evidence, and the relevant authority, the motion is denied. The Court concludes that there are genuine issues of material fact with respect to whether Plaintiff was subjected to an unconstitutional search or seizure under the Fourth Amendment. Accordingly, the Plaintiff is not entitled to a summary judgment or summary adjudication as a matter of law.

Accordingly, and good cause appearing, it is HEREBY ORDERED that:

1. Plaintiff's Motion for Partial Summary Judgment or Summary Adjudication of Issues is denied.

2. The Pretrial Conference, originally scheduled for Monday, October 17, 2005 is vacated due to the Court's unavailability on this date, and is rescheduled for Tuesday, October 18, 2005 at 3:00 p.m.

1 **All deadlines set forth in the Order For Pretrial Preparation shall remain in**
2 **effect as if the Pretrial Conference was still scheduled for October 17, 2005.**

3
4 **IT IS SO ORDERED.**

5
6
7 Dated: 9-14-05



THELTON E. HENDERSON
UNITED STATES DISTRICT JUDGE